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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LESLIE LILIEN, Individually and on Behalf of All Others Similarly Situated,

**Plaintiff,**

V.

OLAPLEX HOLDINGS, INC., JUE WONG, ERIC TIZIANI, TIFFANY WALDEN, CHRISTINE DAGOUSSET, TRICIA GLYNN,

Case No. 2:22-cv-08395-SVW(SKx)

**LEAD PLAINTIFF'S NOTICE OF  
SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF ITS  
OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS**

## Hearing:

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Date: October 16, 2023

Time: 1:30 PM

Courtroom: 10A

Judge: Hon. Stephen V. Wilson

1 DEIRDRE FINDLAY, JANET  
2 GURWITCH, MARTHA MORFITT,  
3 DAVID MUSSAFER, EMILY  
4 WHITE, MICHAEL WHITE, PAULA  
5 ZUSI, ADVENT INTERNATIONAL  
6 GPE IX LIMITED PARTNERSHIP,  
7 ADVENT INTERNATIONAL GPE IX-  
8 B LIMITED PARTNERSHIP, ADVENT  
9 INTERNATIONAL GPE IX-C  
10 LIMITED PARTNERSHIP, ADVENT  
11 INTERNATIONAL GPE IX-F  
12 LIMITED PARTNERSHIP, ADVENT  
13 INTERNATIONAL GPE IX-G  
14 LIMITED PARTNERSHIP, ADVENT  
15 INTERNATIONAL GPE IX-H  
16 LIMITED PARTNERSHIP ADVENT  
17 INTERNATIONAL GPE IX-I LIMITED  
18 PARTNERSHIP ADVENT  
19 INTERNATIONAL GPE IX-A SCSP,  
20 ADVENT INTERNATIONAL GPE IX-  
21 D SCSP, ADVENT INTERNATIONAL  
22 GPE IX-E SCSP, ADVENT  
23 INTERNATIONAL GPE IX  
24 STRATEGIC INVESTORS SCSP,  
25 ADVENT PARTNERS GPE IX  
26 LIMITED PARTNERSHIP, ADVENT  
27 PARTNERS GPE IX-A LIMITED  
28 PARTNERSHIP, ADVENT PARTNERS  
GPE IX CAYMAN LIMITED  
PARTNERSHIP, ADVENT PARTNERS  
GPE IX-A CAYMAN LIMITED  
PARTNERSHIP, ADVENT PARTNERS  
GPE IX-B CAYMAN LIMITED  
PARTNERSHIP, MOUSSERENA, L.P.,  
GOLDMAN SACHS & CO. LLC, J.P.  
MORGAN SECURITIES LLC,  
MORGAN STANLEY & CO. LLC,  
BARCLAYS CAPITAL INC., BOFA  
SECURITIES, INC., EVERCORE  
GROUP L.L.C., JEFFERIES LLC,  
RAYMOND JAMES & ASSOCIATES,

1 INC., COWEN AND COMPANY, LLC,  
2 PIPER Sandler & CO., TRUIST  
3 SECURITIES, INC., TELSEY  
4 ADVISORY GROUP LLC, DREXEL  
5 HAMILTON, LLC, and LOOP  
6 CAPITAL MARKETS LLC,

Defendants.

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## **NOTICE OF SUPPLEMENTAL AUTHORITY**

Lead Plaintiff respectfully submits this Notice of Supplemental Authority in support of its Oppositions to Defendants' Motions to Dismiss (ECF Nos. 133-36) to notify the Court of a recent securities decision by the Ninth Circuit, *In re Facebook, Inc. Securities Litigation*, No. 22-15077, 2023 WL 6857600 (9th Cir. Oct. 18, 2023) (attached as Exhibit A hereto). This decision was issued on October 18, 2023, after the close of briefing and oral argument on Defendants' motions to dismiss on October 16, 2023.

In *Facebook*, the Ninth Circuit rejected the same argument that Defendants assert here—that Olaplex’s risk statements omitting the libel issue in the Initial Public Offering (“IPO”) documents were not false and misleading because some of those risks (the resultant harm to Olaplex’s reputation, competitive position, and business) had not yet materialized. Specifically, the Ninth Circuit held that Facebook’s “risk statements” that warned of “only the hypothetical risk of improper third-party misuse of Facebook users’ data could harm Facebook’s business, reputation, and competitive position” were “plausibly materially misleading” by failing to disclose that a third party, Cambridge Analytica, had already improperly accessed and used Facebook users’ data, “even if Facebook did not yet know the extent of the reputational harm it would suffer as a result of the breach[.]” *Id.* at \*8-9. The Ninth Court explained that “[o]ur case law does not require harm to have materialized for a statement to be materially misleading[,]” and “[b]ecause Facebook presented the prospect of a breach as purely hypothetical when it had already occurred, such a statement could be misleading even if the magnitude of the ensuing harm was still unknown.” *Id.* at \*9.

25 The same is true here. Olaplex presented the prospect of the negative “impact”  
26 of “laws and regulations” as purely hypothetical—including, e.g., that regulators  
27 “**may**” deem Olaplex’s product ingredients “unsafe” and Olaplex “**may**” need to  
28 “reformulate” or “remove” such ingredients, which “**could** have an adverse effect

1 on our existing business,” including potential “negative publicity” and damage to  
 2 Olaplex’s reputation, competitive position, and sales. *E.g.*, ECF No. 123 ¶¶164, 166,  
 3 168, 170 (emphasis added). In reality, however, the E.U. had *already* amended its  
 4 consumer regulations to ban the liliil ingredient in Olaplex’s flagship No. 3 product  
 5 as unsafe due to its reproductive system risks, prompting Olaplex to *already*  
 6 reformulate the No. 3 product to remove liliil shortly before the IPO. Thus, such  
 7 hypothetical risk warnings were plausibly materially misleading, even if the  
 8 associated reputational and business harm from this already-existing liliil issue had  
 9 not yet materialized.

10       The *Facebook* decision is also instructive on Defendants’ truth-on-the-market  
 11 defense that Olaplex did not need to disclose the liliil issue because the E.U. liliil  
 12 ban and the ingredients in the No. 3 product were publicly available. Even though  
 13 some of Cambridge Analytica’s misconduct was already “public” through various  
 14 news articles, the Ninth Circuit held that this was insufficient to absolve Facebook  
 15 of liability because, at the time of the misstatements, “the news of Cambridge  
 16 Analytica’s misconduct was far from ‘transmitted to the public with a degree of  
 17 intensity and credibility sufficient to effectively counterbalance any misleading  
 18 impression.’” *Facebook*, 2023 WL 6857600, at \*10 (quoting *Provenz v. Miller*, 102  
 19 F.3d 1478, 1493 (9th Cir. 1996)). Here, Defendants have not cited even a single  
 20 news article (nor other evidence) showing that, at the time of the IPO, the public  
 21 knew about the E.U. liliil ban and its impact on Olaplex’s No. 3 product, rendering  
 22 their truth-on-the-market argument even more unavailing.

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1 Dated: October 30, 2023

LABATON SUCHAROW LLP

3 By: /s/ Irina Vasilchenko  
4 IRINA VASILCHENKO

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